

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DISTRICT ATTORNEY OF NEW YORK
COUNTY,

Interpleader Plaintiff, :

v. :

THE REPUBLIC OF THE PHILIPPINES,
et al.,

Interpleader Defendants. :

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KATHERINE POLK FAILLA, District Judge:

USDC SDNY
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14 Civ. 890 (KPF)

ORDER TO SHOW CAUSE

At a conference held on October 25, 2016, the Court heard argument on the application of Class Plaintiffs for the imposition of sanctions against the Republic of the Philippines (the “Republic”) in connection with the Republic’s failure to produce two witnesses for depositions. (*See* Dkt. #296 (application)). Prior to the conference, the Court received a preliminary response from counsel for the Republic, which, broadly speaking, sought to minimize the relevance of the two deponents while terming the application “premature” because the Republic had not indicated “that those witnesses will *never* appear, simply that they were refusing to appear at that time.” (Dkt. #283 at 2 (emphasis in original)). The Republic’s response inadequately addressed the substance of Class Plaintiffs’ application, and for this reason the Court sought additional information and explanation from the Republic’s counsel at the October 25 conference.

In resolving this application, the Court has balanced the complications attributed to the recent change in presidential administrations (including the proffered impact on the composition of the Presidential Commission on Good Government (the “PCGG”) and the current reevaluation of the Republic’s position in this litigation) with the length of time that this and related cases have been proceeding and the decidedly imprecise timeline offered by the Republic’s counsel for the completion of the reevaluation. While certainly respectful of the need for the Republic to ensure that its current litigation position aligns with the objectives of the new administration, this Court does not see the connection that the Republic’s counsel asks it to draw between the need for reevaluation and the decision not to produce two individuals affiliated with the PCGG for their long-scheduled depositions. Put somewhat differently, having previously rejected as insufficient the explanation offered by the Republic in its October 7 letter, the Court similarly cannot accept the proposition advanced during the October 25 conference that refusing to produce two of multiple deponents (which two deponents have, as the Class Plaintiffs explain, information relevant to the issues in this case) at the twelfth hour can fairly be attributed to the change in presidential administrations.

Finding the Republic’s explanations for this conduct to be lacking, this Court ORDERS the Republic TO SHOW CAUSE in writing, on or before **December 1, 2016**, why this Court should not impose the three sanctions outlined by the Class Plaintiffs in the October 4 letter. Lest there be any confusion, the Court expects to receive from the Republic, on or before the

December 1 date, a letter confirming that the two depositions have taken place or a comprehensive written submission responding to the Class Plaintiffs' request for sanction.

SO ORDERED.

Dated: October 27, 2016
 New York, New York

A handwritten signature in blue ink, reading "Katherine Polk Failla".

KATHERINE POLK FAILLA
United States District Judge